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RUBEN C. DeLEON
WINSTEAD SECHROST & MINICK P.C.
P. O. BOX 50784
DALLAS, TEXAS 75201

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OFFICE OF PETITIONS

In re Application of :
Ronny Crawford et al. :
Application No. 10/758,657 : DECISION ON PETITION
Filed: January 15, 2004 : UNDER 37 CFR 1.137(b) and 1.78(a)(6)
Attorney Docket No. 33343.4 :

A. *Petition under 1.137(b)*

This is a decision on the petition under 37 CFR §1.137(b), filed February 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely reply within the two-month reply period set in the Notice to file Missing Parts of a Non-provisional Application (Notice) mailed April 20, 2004. No extensions of time have been obtained pursuant to the provisions of 37 CFR §1.136(a). The date of abandonment of this application was June 21, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the reply (missing signature, fee and substitute specification); (2) the petition fee of \$750.00 (for a small entity); and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed April 20, 2004 is accepted as having been unintentionally delayed.

B. *Petition under 1.78(a)(6)*

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 17, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

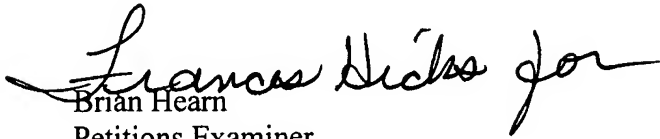
The petition satisfies the above requirements. Accordingly, the claim for priority is accepted as having been unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Angela Ortiz at (571) 272-6051 or the undersigned at (571)272-3217. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Office of Initial Patent Examination to complete processing of the application.


Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt